

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CITY OF TACOMA, a Washington
municipal corporation,

Plaintiff,

v.

WORLDGATE COMMUNICATIONS,
INC., a Delaware corporation,

Defendant.

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Civil Action No. 05-62-GMS

JURY TRIAL DEMANDED

STIPULATED REVISED SCHEDULING ORDER

WHEREAS, the Court entered a Scheduling Order in the above-captioned case on December 19, 2005, and

WHEREAS, the parties filed a Stipulation to Extend Time for Expert Disclosures on January 27, 2006, and

WHEREAS, the parties wish to mediate the case before incurring significant legal fees and expenses in discovery, and

WHEREAS, on February 21, 2006, Magistrate Judge Thyng entered an Order Scheduling Mediation on October 3, 2006, less than a month before trial, and well after the close of discovery and briefing on case dispositive motions pursuant to the Court's previously entered Scheduling Order, and

WHEREAS, the parties have agreed to and arranged for a private mediation on April 28, 2006,

NOW, THEREFORE, it is hereby stipulated and agreed, subject to the approval of the Court, that the Scheduling Order and Stipulation to Extend Time for Expert Disclosures be revised as follows:

1. Discovery.

a. Discovery Cut Off. All discovery in this case shall be initiated so that it will be completed on or before June 7, 2006. The Court encourages the parties to serve and respond to contention interrogatories early in the case. Unless otherwise ordered by the Court, the limitations on discovery set forth in Local Rule 26.1 shall be strictly observed.

b. Disclosure of Expert Testimony. The parties shall file their initial Federal Rule of Civil Procedure 26(a)(2) disclosures of expert testimony on or before May 22, 2006, and file a supplemental disclosure to contradict or rebut evidence on the same subject matter identified by another party on or before June 5, 2006. To the extent any objection to expert testimony is made pursuant to the principles announced in Daubert v. Merrell Dow Pharm., Inc., 509 U.S. 579 (1993), it shall be made by motion no later than the deadline for dispositive motions set forth herein, unless otherwise ordered by the Court.

c. Discovery Disputes. Should counsel find they are unable to resolve a discovery dispute, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the conference, the party seeking relief shall file with the Court a letter, not to exceed two (2) pages, outlining the issues in dispute and its position on those issues. (The Court does not seek extensive argument or authorities at this point; it seeks simply a statement of the issue to be addressed and a summary of the basis for the party's position on the issue.) Not less than twenty-four hours prior to the conference, any party opposing the application for relief may file a letter, not to exceed two (2) pages, outlining that party's

reasons for its opposition. Should the Court find further briefing necessary upon conclusion of the telephone conference, the Court will order it.

2. Papers Filed Under Seal. When filing papers under seal, counsel should deliver to the Clerk an original and one copy of the papers.

3. Case Dispositive Motions. All case dispositive motions, an opening brief, and affidavits, if any, in support of the motion shall be served and filed on or before June 12, 2006. Briefing will be presented pursuant to the Court's Local Rules.

4. Applications by Motion. Except as otherwise specified herein, any application to the Court shall be by written motion filed with the Clerk. Unless otherwise requested by the Court, counsel shall not deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

5. Pretrial Conference. On October 11, 2006, the Court will hold a Final Pretrial Conference in Chambers with counsel beginning at 10:00 a.m. Unless otherwise ordered by the Court, the parties should assume that filing the pretrial order satisfies the pretrial disclosure requirement of Federal Rule of Civil Procedure 26(a)(3). The parties shall file with the Court the joint proposed final pretrial order with the information required by the form of Final Pretrial Order available on the Court's website on or before September 18, 2006.

6. Motions *in Limine*. Motions *in limine* shall not be separately filed. All *in limine* requests and responses shall be set forth in the proposed pretrial order. Each party shall be limited to five *in limine* requests, unless otherwise permitted by the Court. The motion and response thereto shall contain the authorities relied upon, and no single *in*

limine request shall have more than five pages of argument associated with it. No separate briefing shall be submitted on *in limine* requests, unless otherwise permitted by the Court.

7. Jury Instructions, Voir Dire, and Special Verdict Forms. Where a case is to be tried to a jury, pursuant to Local Rules 47 and 51 the parties should file proposed voir dire, instructions to the jury, and special verdicts and interrogatories three full business days before the final pretrial conference. That submission shall be accompanied by a compact disk (in Word Perfect Format) which contains a copy of these instructions and proposed voir dire and special verdicts and interrogatories.

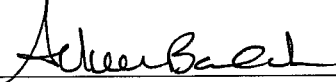
8. Trial. This matter is scheduled for a five (5) day jury trial beginning at 9:30 a.m. on October 30, 2006.

Dated: _____

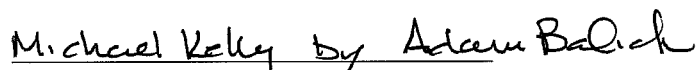
UNITED STATES DISTRICT JUDGE

Agreed as to form and substance:

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Dated: 4/26/06

Dated: 4/26/06